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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/773,185

02/09/2004

Kia Silverbrook

MTB27US

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24011 7590 10/16/2008
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

EXAMINER

FIDLER, SHELBY LEE

ART UNIT

PAPER NUMBER

2861

MAIL DATE

DELIVERY MODE

10/16/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/773,185	Applicant(s) SILVERBROOK, KIA	
	Examiner SHELBY FIDLER	Art Unit 2861	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,6,8-21,23-25,27-39 and 42-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6,8-21,23-25,27-39 and 42-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/29/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Responsive Office Action

This Office Action is responsive to Applicant's remarks and amendments filed 6/19/2008.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 7/29/2008 has been considered by the examiner.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 3, 5-6, 8, 10-19, 21, 24-25, 27, 29-39, 42-44, and 46-54 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 7431433 B2 in view of Andrews et al. (US 6568792 B2) and Hiramatsu et al. (US 6967312 B2).

Regarding claims 1, 19, and 38:

Claims 1, 18, and 35 of U.S. Patent No. 7431433 B2 claims each and every limitation of instant claims 1, 19, and 38, except that each heater element strip has a cross section with a lateral dimension that is at least triple that of the thickness of that strip and different than a lateral dimension of each other strip, the thickness of each strip being less than 0.3 microns.

However, Andrews et al. and Hiramatsu et al. disclose teachings that make these limitations obvious, such as shown in the previous Office Action dated 3/20/2008.

Regarding claims 3, 5-6, 8, 10-18, 21, 24-25, 27, 29-37, 39, 42-44, and 46-54:

The claims of U.S. Patent No. 7431433 B2, made obvious over the abovementioned prior art, also claim all the limitations of the instant dependent claims as shown by the following table:

<i>Instant Application 10/773185</i>	<i>U.S. Patent No. 7431433 B2</i>
3	2
5	5
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Art Unit: 2861

13	12
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Claims 1-2, 5-6, 8-20, 23-25, 27-38, 42, and 44-54 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 7429097 B2 in view of Andrews et al. (US 6568792 B2) and Hiramatsu et al. (US 6967312 B2).

Regarding claims 1, 19, and 38:

Claims 1, 16, and 31 of U.S. Patent No. 7429097 B2 claims each and every limitation of instant claims 1, 19, and 38, except that each heater element strip has a cross section with a lateral dimension that is at least triple that of the thickness of that strip and different than a lateral dimension of each other strip, the thickness of each strip being less than 0.3 microns.

However, Andrews et al. and Hiramatsu et al. disclose teachings that make these limitations obvious, such as shown in the previous Office Action dated 3/20/2008.

Regarding claims 2, 5-6, 8-18, 20, 23-25, 27-37, 42, and 44-54:

The claims of U.S. Patent No. 7429097 B2, made obvious over the abovementioned prior art, also claim all the limitations of the instant dependent claims as shown by the following table:

<i>Instant Application 10/773185</i>	<i>U.S. Patent No. 7429097 B2</i>
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Art Unit: 2861

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Allowable Subject Matter

Each claim would be allowable if rewritten or amended to overcome the double patenting rejection(s) under set forth in this Office action.

Claims 1-3, 5-6, and 8-18 contain allowable subject matter since the prior art of record does not disclose, teach, or make obvious an ink jet printhead comprising a plurality of heater elements disposed in each of the bubble forming chambers, respectively, wherein each heater element is an elongate strip suspended between electrodes and the heater elements and associated electrodes are arranged so that the electrodes are non-coincident with the electrodes of other heater elements. It is this combination of limitations, in combination with other features and limitations of claim 1, that indicates allowability over the prior art of record.

Claims 19-21, 23-25, and 27-37 contain allowable subject matter since the prior art of record does not disclose, teach, or make obvious a printer system incorporating a printhead, the printhead comprising a plurality of heater elements disposed in each of

Art Unit: 2861

the bubble forming chambers, respectively, wherein each heater element is an elongate strip suspended between electrodes and the heater elements and associated electrodes are arranged so that the electrodes are non-coincident with the electrodes of other heater elements. It is this combination of limitations, in combination with other features and limitations of claim 19, that indicates allowability over the prior art of record.

Claims 38-39 and 42-54 contain allowable subject matter since the prior art of record does not disclose, teach, or make obvious a method of ejecting drops comprising the step of heating the heater element to a temperature above the boiling point of the bubble forming liquid, wherein the heater elements and associated electrodes are arranged so that the electrodes are non-coincident with the electrodes of the other heater elements. It is this combination of limitations, in combination with other features and limitations of claim 38, that indicates allowability over the prior art of record.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHELBY FIDLER whose telephone number is (571)272-8455. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Luu can be reached on (571) 272-7663. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2861

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LUU MATTHEW/
Supervisory Patent Examiner, Art Unit 2861

/Shelby Fidler/
Examiner, Art Unit 2861